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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,470	10/30/2001	Bruce A. Kalandek	1183	4868

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EXAMINER

SLITERIS, JOSELYNN Y

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 03/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/021,470

Applicant(s)

KALANDEK ET AL

Examiner

Joselynn Y. Sliteris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) 3-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed and/or disclosed invention:

- I. Figs. 1-3;
- II. Fig. 4;
- III. Figs. 5 & 6; and
- IV. Figs. 7 & 8.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 appears to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Markell Seitzman (Reg. No. 28,756) on 3/11/03 a provisional election was made without traverse to prosecute the invention of Figs. 1-3, claim 2. Affirmation of this election must be made by applicant in replying to this Office action. Claims 3-5 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

- ✓4. The drawings are objected to they are replete with informalities. Here are a few examples: many of the numerals are unclear; in Fig. 1, "72a" is not designating any particular part & "72b" is improperly designating the apex; in Fig. 1a, "74a" & "74b" are improperly designating the mounting opening; in Fig. 1a, "72c" & "72a" should be

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interchanged; in Fig. 1b, "APPROX ... AT" should be deleted; in Fig. 2, "70" is improperly designating the force-directing mounting mechanism. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

✓ 5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "~~54~~⁷³" has been used to designate both non-inflatable section of air bag material and sheet metal of pillar (Figs. 7 & 8, respectively). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

✓ 6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 84 (pg 6 lines 1 & 26). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

✓ 7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 33, 144 (Fig. 5). A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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8. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

Specification

✓ 9. The disclosure is objected to because it is replete with informalities. Here are a few examples: on pg 4 line 15, "opening" should be --anchor--; on pg 4 line 31, "bar" should be --rod--; on pg 5 lines ~~7~~²⁹ & 8, "72a" should be --72b--; on pg 6 line 10, "72a" should be --76--; ETC; ETC. Appropriate correction is required, and applicant is advised to thoroughly review the application and correct any other errors of which applicant becomes aware in the specification.

Claim Rejections - 35 USC § 112

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

✓ 12. Regarding claim 1, the recitation "the roof rail" in line 3 lacks proper antecedent basis in the claim.

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13. Regarding claim 2, the recitations "The system" in line 1, "the apex" in line 2, and "the second air bag anchor" in line 3 lack proper antecedent basis in the claim.

Claim Rejections - 35 USC § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

15. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Brantman et al. (U.S. Patent 5,924,723).

16. Regarding claim 1, Brantman discloses a side impact air bag curtain apparatus as in the present invention comprising:

an inflatable air bag 48 including a set of first air bag anchors fixedly connected to a determinate set of fixed first vehicle anchors within the vehicle, the air bag including at least one movable air bag anchor 66 at an end of the air bag; and a force-directing member or guide 68, 70, 92 fixedly mounted at a determinable orientation within the vehicle, wherein upon inflation of the air bag, the air bag moves to the deployed condition causing the movable anchor to slide down the force-directing member so that upon inflation of the air bag the movable anchor is self

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located in or near a center of the force-directing member resisting any tendency of the curtain to move or be moved upwardly (Fig. 4).

17. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Peer et al. (U.S. Patent 6,474,681).

18. Regarding claim 1, Peer discloses a side impact air bag curtain apparatus as in the present invention comprising:

an inflatable air bag 14, 14a, 14b including a set of first air bag anchors fixedly connected to a determinate set of fixed first vehicle anchors within the vehicle, the air bag including at least one movable air bag anchor 100, 100a, 100b at an end of the air bag; and

a force-directing member or guide 70, 70a, 70b fixedly mounted at a determinable orientation within the vehicle, wherein upon inflation of the air bag, the air bag moves to the deployed condition causing the movable anchor to slide down the force-directing member so that upon inflation of the air bag the movable anchor is self located in or near a center of the force-directing member resisting any tendency of the curtain to move or be moved upwardly (Figs. 13, 14).

19. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Tesch et al. (U.S. Patent 6,454,296).

20. Regarding claim 1, Tesch discloses a side impact air bag curtain apparatus as in the present invention comprising:

an inflatable air bag 40 including a set of first air bag anchors fixedly connected

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to a determinate set of fixed first vehicle anchors within the vehicle, the air bag including at least one movable air bag anchor 56 at an end of the air bag; and

a force-directing member or guide 54 fixedly mounted at a determinable orientation within the vehicle, wherein upon inflation of the air bag, the air bag moves to the deployed condition causing the movable anchor to slide down the force-directing member so that upon inflation of the air bag the movable anchor is self located in or near a center of the force-directing member resisting any tendency of the curtain to move or be moved upwardly (Figs. 3, 4).

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claim 2, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Peer et al. in view of Wipasuramonton et al. (U.S. Patent 6,412,810).

23. Regarding claim 2, Peer discloses the claimed invention except for the rod 70b being bent. Wipasuramonton discloses that it is known in the art to provide a bent rod 350 (Fig. 7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the rod of Peer with the bend of Wipasuramonton, in order to help the movable anchor to self locate on the rod.

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Conclusion


24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joselynn Y. Sliteris whose telephone number is 703-308-8225. The examiner can normally be reached on Mon-Fri 8:30 am - 6:00 pm; alternating Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 703-308-2089. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-2571 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1134.

JYS 
March 12, 2003

 01/17/03
PAUL N. DICKSON
SUPERVISORY PATENT EXAMINER
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